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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of)

Broadcast Television National)
Ownership Rules)

MM Docket No. 96-222 ✓

Review of the Commission's)
Regulations Governing Television)
Broadcasting)

MM Docket No. 91-221

Television Satellite Stations)
Review of Policy and Rules)

MM Docket No. 87-8

COMMENTS OF ABC, INC.

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February 7, 1997

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To: The Commission

COMMENTS OF ABC, INC.

ABC, Inc. ("ABC"), a wholly-owned subsidiary of The Walt Disney Company, submits herewith its Comments in response to the Notice of Proposed Rule Making ("Notice") in the above-entitled proceeding.¹ ABC owns and operates the ABC Television Network and ten television broadcast stations.

Introduction

The Commission proposes two new rules, with both of which ABC concurs: (a) using Nielsen's "Designated Market Area" ("DMA") markets in calculating the total national reach encompassed by jointly-owned television stations; and (b) excluding from the

¹ MM Docket No. 96-222, MM Docket No. 91-221 and MM Docket No. 87-8, Notice of Proposed Rule Making, FCC 96-437 (released November 7, 1996).

national reach calculation the potential audience of more than one television station in any one DMA.

I. The Commission Should Use Nielsen's DMAs to Calculate National Audience Reach.

Last year the Commission decided that Arbitron's "Area of Dominant Influence" system of dividing the country into discrete markets, although now defunct, would be used to administer the regulations concerning cable retransmission of local broadcast signals for the 1996 must-carry/retransmission consent election period.² Thereafter, the Commission further decided, DMAs would be used because they are the best current local market definition for television:

The Commission concludes that Nielsen's DMA market assignments provide the most accurate method for determining the areas served by local stations. We recognize the benefits of switching to a market definition based on DMAs. DMAs have become the television market standard for commercial purposes in the absence of any alternative. They represent the actual market areas in which broadcasters acquire programming and sell advertising.³

For the same reason -- DMAs are the best available method to determine the market available to each television broadcast station -- the Commission should use DMAs to calculate a multiple

² Report & Order and Further Notice of Proposed Rulemaking, CS Docket No. 95-178, 3 CR 83 (released May 24, 1996) ("ADI/DMA Order"), par. 48.

³ ADI/DMA Order, par. 39 (footnote omitted). See Notice, par. 29.

station owner's national reach.

II. In Calculating National Audience Reach, the Commission Should Not Double Count Single Markets.

The Commission originally adopted the twenty-five percent national reach rule, along with the relaxation of the station ownership cap from seven to twelve stations, in its effort to strike a balance between the substantial benefits that flow from multiple ownership and the potential loss in viewpoint diversity and economic competition that might result nationally from greater concentration.⁴ As the Commission notes, when Congress increased the permissible national reach to thirty-five percent in the Telecommunications Act of 1996 (the "1996 Act"), it did not address the issue of how multiple station ownership in one market should be calculated for national reach purposes.⁵

In the Notice, the Commission recognizes that there may be several circumstances under which a party holds attributable interests in two stations in a single market: where one station is a satellite; dual ownership pursuant to a waiver of the duopoly rule or under a relaxed version of that rule; and where the party owns one station and programs a substantial amount of the programming of another under an LMA agreement.⁶ The Commission

⁴ See Memorandum Opinion and Order, Gen. Docket No. 83-1009, 57 RR 2d 966 (released Feb. 1, 1985), pars. 2-3, 30-32.

⁵ Notice, par. 1.

⁶ See Notice, pars. 20-22, 27. As the Commission notes, whether an LMA broker should be held to have an attributable interest

proposes in those circumstances not to "double count" the television households within that market for national ownership purposes.

We support the Commission's proposal. To the extent that a party holds an attributable interest in more than one television station in a single market consistent with local ownership rules, it makes no sense to apply multiple counts of the market's television households to the owner. The national reach rule is intended to limit national concentration, and multiple station holdings in one market plainly do not add to national reach. Accordingly, double counting would not serve the purpose of the rule.

Further, double counting would defeat the one of the goals of the 1996 Act. Congress mandated the increase of the national reach limit to thirty-five percent and the Commission has implemented the increase in its regulations.⁷ To count households twice against a party having an attributable interest in two stations in a market would have the effect of nullifying that increase.

Conclusion

ABC agrees with the Commission's proposal to (a) use Nielsen's DMA markets for calculating television national reach, and (b) avoid double counting television households in one market in a calculating the national reach of an owner of more than one

in the LMA station is the subject of another pending rulemaking. Notice, par. 26.

⁷ 1996 Act, section 202(c); 47 C.F.R. §3555(e).

television station in one market.

Respectfully submitted,

By: _____

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